588 Free union. This type of union rests on simple consent
583 by the two parties without any bride price.

In principle a woman who has ceased to belong to a husband belongs to her original community, and she can make no decisions concerning her future without its consent. If she ignores this, the community can always intervene to force her to break off any engagement she may have made, and to this end it may use any means of absolute control.

This suffices to explain why a man who agrees to a union of this kind usually finds himself in the most serious difficulties. Not only can his wife and children be taken from him without
● [672] redress, but he can be sued for damages by the community to which the woman belongs.

It does sometimes happen, however, that certain women are released from the authority of their communities. These include women who are sole survivors of a community and, more commonly, those who have bought their freedom by dubious means. A free man who lives with such women achieves a union that to a great extent has the same effect as marriage. [206]

The Family

592 The household. The lawful household is based on mar-
583 riage. In order to grasp its essence, account must be taken of the interplay of two elements which are perfectly distinct but always closely involved in all human affairs: interest and sentiment. In a lawful household the essential interest is the bride price whose nature must be defined in order to understand its overwhelming importance.

583 Bride price is what is paid in exchange for a wife. It is understood that the status of the woman thus handed over does not change; if she was free before the event, she is still free after the payment of the bride price.

586 The marriage tie is such that it can always be broken by one or the other party; the one breaking the contract simply loses the bride price in the sense that if the husband initiated the rupture he cannot expect anything already paid to be returned. If the initiative was taken by the wife (or her community), then she must return what has been paid. Whatever the cause of rupture, however, the children always belong to the husband.

681 survived hardly more than 15 days of this punishment. The whip was applied publicly; the lashes, whose number was fixed by the Fama, were given with either a full swing of the arm or by the forearm only. Fines had to be paid immediately, or else the condemned was held for security until his family liquidated the debt.

672 681 The family of a man who had committed a crime or fault was held responsible and could be confiscated and sold; the confiscation of persons involved the confiscation of goods. All those who worked together under the authority of the same head could be confiscated, but not maternal uncles, paternal and maternal aunts of the culprit, nor his married relatives or those on the point of marrying. The confiscation was to the profit of the Fama who compensated the victims. Confiscation [71] of goods includes all furnishings, but not lands or dwellings.

681 Whoever was condemned to slavery had to be sold outside of the country, to the profit of the Fama. It was a practical method of ridding the land of all undesirables.

Finally, any second offender had his punishment doubled.

c. Examples of Condemnations

682 684 685 847 Homicides are condemned to death, but involuntary homicides or cases of legitimate self-defense are excused. A murderer's accomplice is subject to the same penalty as the murderer. One who receives a criminal or stolen goods is punished in the same fashion as the culprit. Rape of a child is punished by death, of a young girl by being put into irons after having paid reparations to her fiancé. A woman who puts her bastard to death will be excused, for her husband may have required her to do it; if she kills her legitimate child, she is punished by death, but not executed. A woman who has an abortion is publicly whipped; when she causes an abortion in another woman, she is condemned to death. A man who usurps the title of a function to which he is not entitled is put to death, as is the charlatan and the sorcerer. Theft of gold is punishable by death; theft of household objects is compensated for by a fine. If, during a brawl between two villages, a member of one village is killed, the aggrieved village designates an individual in the other village to be put to death. If there are several deaths on both side, the number of deaths in the two villages is equalized.

683 687

689 Public violation of decency is punished by death.

684 For adultery, the man is put in irons and pays a fine, the woman is whipped by her husband, her brothers, or the Fama's police. Relations with a woman in mourning draws public scorn on the guilty, while a man who commits adultery with a pregnant woman is put to death. A captive who is the lover of his master's wife is put to death.

689 Vagrant individuals are presumed to be escaped captives and are handed over to the Fama.

735 Finally, begging is authorized, because, say the Bambara, it is better to have begging than stealing.

d. Responsibility

[608] The Fama judges all his subjects, except his own sénanku whom he has judged by his tribunal. The law is applicable to every circumcised man and excised woman recognized as sane. (The demented are put in irons.) They are responsible for their acts, but the family of the guilty is also responsible. The father of an uncircumcised boy is responsible for the boy's acts, the husband for the acts of his wife, and we have seen that a man's crime may lead to the punishment of his whole family. Let us further remark that a master was judge of his slave, but when a difference arose between slaves of different houses, their case was referred to the tribunal. The tribunal also weighed the death penalty [72] when a slave committed a grave fault. Finally, the foreigner who lives in the Bambara country is judged by Bambara laws.

672 567 592 [609]

672 We must also note that the penalties apply to all crimes committed voluntarily; every infraction or damage involuntarily committed is excusable on the condition that it be immediately confessed. Thus it is that a hunter meeting a pair of lovers in the bush may kill them for outraging public decency, but must admit his crime immediately upon returning to the village.

[684]

e. Inheritance

428 Monteil has noticed an order of succession in the Ségou region which does not correspond to that described by other authors, such as Ortoli or Aubert. In fact, at the death of the fa, " ... everything that belonged to him remains undivided under the new faya of